

CONGRATULATORY RESOLUTIONS

H.C.R. 39 - (Parker): Honoring Austin W. "Goose" Gonsoulin.

H.C.R. 48 - (Johnson): Declaring February 17, 1987, as Susan B. Anthony Day in Texas.

S.C.R. 35 - By Leedom: Acknowledging the 42nd anniversary of the struggle for unity, freedom, and democracy by the City of Berlin and expressing support for the eventual realization by Berliners of these fundamental aspirations.

S.R. 62 - By Armbrister: Extending congratulations to Mr. and Mrs. Joe R. Custer.

S.R. 63 - By McFarland: Proclaiming March 8 through 14, 1987, as American Association of University Women Week in Austin, Texas.

S.R. 64 - By Brooks: Commending the Youth Advisory Mainland Branch of the National Association for the Advancement of Colored People.

S.R. 66 - By Glasgow: Extending congratulations to Sandra Carol Jackson and Terrance Neal O'Connell.

S.R. 68 - By Glasgow: Commending Raymond E. Curtis.

S.R. 70 - By Glasgow: Extending congratulations to Chuck DeHaan for being named the Texas State Artist.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:44 a.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

Sent to Governor
(February 16, 1987)

S.C.R. 16

S.C.R. 19

FIFTEENTH DAY

(Tuesday, February 17, 1987)

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Absent-excused: Sarpalius.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Almighty Father, help each of us this day to love and accept others as You accept us—imperfections and all.

Free us, we pray, from the continuing urge to judge others. We pray this in the spirit of Christ. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Sarpalius was granted leave of absence for today on account of illness on motion of Senator Glasgow.

RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolutions:

H.C.R. 14
H.C.R. 16
H.C.R. 39
H.C.R. 44
H.C.R. 48
H.C.R. 52

CO-AUTHOR OF SENATE BILL 260

On motion of Senator Henderson and by unanimous consent, Senator Lyon will be shown as Co-author of S.B. 260.

REPORT OF STANDING COMMITTEE

Senator Jones submitted the following report for the Committee on Finance:

S.B. 34
S.B. 83
S.B. 105
S.B. 266
S.B. 299
S.B. 308
S.B. 309
S.B. 311
S.B. 312
S.B. 367
S.B. 267 (Amended)
S.B. 307 (Amended)

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.C.R. 40 by Lyon Economic Development
Memorializing Congress to propose legislation to halt the hostile takeovers of American corporations.

S.J.R. 18 by Glasgow State Affairs
Proposing a constitutional amendment allowing encumbrances on homestead property under certain circumstances.

S.B. 407 by Caperton, Edwards, Henderson State Affairs
Relating to the requirements for operating as a motor carrier.

- S.B. 408** by Uribe Intergovernmental Relations
Relating to plat requirements and regulations applicable to certain subdivisions of land.
- S.B. 409** by Farabee State Affairs
Relating to a parent's duty to support a child of the parent's child and the creation of a criminal offense for nonsupport of the child.
- S.B. 410** by Montford Natural Resources
Relating to agricultural water conservation grant and loan programs.
- S.B. 411** by Sims Economic Development
Relating to the regulation of certain land surveyors.
- S.B. 412** by Green State Affairs
Relating to the right of state employees to designate any portion of their earned income to organizations of their own choosing; authorizing a fee.
- S.B. 413** by Green Education
Repealing all statutory requirements for subject matter testing of teachers and statutory authority of the State Board of Education to require such testing.
- S.B. 414** by Green Jurisprudence
Relating to the recordation, submission, and recovery of taxable and other court costs incurred in civil suits.
- S.B. 415** by Green Jurisprudence
Relating to possession, filing, certification, and disposition of certain instruments pertaining to civil suits in the district courts.
- S.B. 416** by Green State Affairs
Relating to credit in the Teacher Retirement System of Texas for accumulated sick leave.
- S.B. 417** by Whitmire Criminal Justice
Relating to maintaining a common or public nuisance by allowing the delivery or use of controlled substances on real property.
- S.B. 418** by Parmer Finance
Relating to the composition of the board of directors of a property tax appraisal district.
- S.B. 419** by Lyon Criminal Justice
Relating to the eligibility for release on parole or mandatory supervision of prisoners in the Texas Department of Corrections.
- S.B. 420** by Lyon Criminal Justice
Relating to the punishment for certain assaultive offenses if the victim of the offense is a member or employee of the Board of Pardons and Paroles.
- S.B. 421** by Glasgow, Krier State Affairs
Relating to mortgage loans and to encumbrances on homestead property.
- S.B. 422** by Edwards Health and Human Services
Relating to the manner in which a specimen of blood is taken following an arrest for driving while intoxicated.
- S.B. 423** by Edwards Health and Human Services
Relating to the evaluation of certain criminal defendants to determine a need for drug or alcohol counseling and to the cost of the evaluation.

S.B. 424 by Lyon Jurisprudence
 Enabling home-rule cities to provide for administrative adjudication of parking, stopping, and standing violations and to declare parking, stopping, and standing violations to be civil offenses.

S.B. 425 by Uribe, Anderson Jurisprudence
 Relating to the sale or distribution of personal identification certificates; providing criminal penalties.

S.B. 426 by Uribe Intergovernmental Relations
 Relating to eligibility for the board of trustees of the Texas Municipal Retirement System.

MESSAGE FROM THE HOUSE

House Chamber
 February 17, 1987

HONORABLE W. P. HOBBY
 PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 49, Commending Marley Leonard, Sr.

H.C.R. 53, Memorializing Congress to support construction of the Superconducting Super Collider in Texas.

Respectfully,

BETTY MURRAY, Chief Clerk
 House of Representatives

SENATE RESOLUTION 30

Senator Montford offered the following resolution:

S.R. 30, In memory of W. D. "Bill" Noel.

The resolution was read.

On motion of Senator Sims and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Montford and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

GUESTS PRESENTED

Senator Montford introduced Mrs. Bill Noel, John and Sherwood McGuigan, Cy Wagner and Grace King.

Senator Montford and Senator Sims escorted these guests to the President's Rostrum.

The President presented Mrs. Noel an enrolled copy of **S.R. 30**.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
February 17, 1987

TO THE SENATE OF THE SEVENTIETH LEGISLATURE,
REGULAR SESSION:

Pursuant to Article III, Section 5 of the Texas Constitution, I hereby designate as an emergency matter legislation to transfer up to \$32.4 million from Highway Fund No. 6 in the following amounts to the following funds:

\$20.4 million to a special fund for approved expenditures for court-ordered Ruiz compliance; and

up to \$12 million to the Attorney General's office for payment of workers compensation claims.

Respectfully submitted,
/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

February 17, 1987

TO THE SENATE OF THE SEVENTIETH LEGISLATURE,
REGULAR SESSION:

The withdrawal of recess nominations by an incoming governor with the consent of the Senate, is an approved procedure in the State of Texas. TEX. ATTY. GEN. OP. NO. 2910 (January 21, 1933). The procedure has historical as well as legal precedent. On February 25, 1957, the Senate gave its consent to Governor Price Daniel's withdrawal of outgoing Governor Shivers' appointments of members of the Board of Regents of The University of Texas and members of the Board of Directors of Texas A&M College. Texas Senate Journal, 1957, p. 317. This precedent was again followed by the Senate when it gave its consent to Governor Mark White's withdrawal of outgoing Governor William P. Clements' appointments of members to the Board of Regents of The University of Texas System and the Board of Regents of The Texas A&M University System, as well as two appointees to the Veterans Land Board. Texas Senate Journal, 1983, p. 99-123. The Senate refused by a vote of twenty to ten, one present - not voting, to return Governor Clements' appointee to the Texas Employment Commission. Texas Senate Journal, 1983, p. 123. However, Governor Clements' appointee to the Texas Employment Commission was never confirmed by the Senate. The Senate returned a total of fifty-nine appointees of Governor Clements and retained forty-three on January 20, 1983. Texas Senate Journal, 1983, p. 107-123.

At the time Governor White requested the Senate to return these appointees, he also urged the Senate to pass legislation such as Senate Bill 859, which had been vetoed by his predecessor, clarifying the authority and responsibility of an incoming governor to make appointments.

Governor White also urged the passage of similar legislation to prohibit an outgoing governor from making appointments occurring between a general election and the day of a new governor's inauguration. In response the House and Senate of the 68th Legislature, Regular Session, passed Senate Bill 194. Texas House Journal, 1983, p. 3386 and Texas Senate Journal, p. 168.

My predecessor subsequently signed S.B. 194 into law, pledging to abide by the spirit and intent of S.B. 194.

Before you now are seven appointees which appear to be in violation not only of Senate Bill 194, but also of the spirit and intent of the Senate and my predecessor in this matter.

I and Lieutenant Governor Hobby along with Senator Chet Edwards, Senator Bob McFarland and other Senators and members of my Senior Staff have worked hard to rectify this situation.

There are too many important issues facing Texas today to become embroiled in what would at best only be a Pyrrhic victory for the Senate or me and would ultimately be a disservice to the people of Texas.

For these reasons I respectfully will not request the Senate to return the following appointees:

TO BE A MEMBER OF THE TEXAS EMPLOYMENT COMMISSION: For a term to expire on November 21, 1988: MRS. NANCY BARNES of Austin, Travis County, is replacing Mr. Eddie Grisham of Austin, Travis County, who resigned.

TO BE A MEMBER OF THE TEXAS TURNPIKE AUTHORITY BOARD OF DIRECTORS: For a term to expire February 15, 1991: MR. RICHARD L. BISCHOFF of Houston, Harris County, is replacing Mr. Clive Runnells of Houston, Harris County, whose term expired.

TO BE A MEMBER OF THE TEXAS ANIMAL HEALTH COMMISSION: For a term to expire December 6, 1987: DR. KENNETH DORRIS of Stephenville, Erath County, is replacing Dr. Richard Botard of Kingsville, Kleberg County, who is deceased.

TO BE A MEMBER OF THE JUDICIAL COUNCIL: For a term to expire February 1, 1989: THE HONORABLE ROBERT A. GAMMAGE of Austin, Travis County, is replacing Mr. James Boyle of Austin, Travis County, who resigned.

TO BE A MEMBER OF THE HOME HEALTH SERVICES ADVISORY COUNCIL: For a term to expire January 31, 1988: MS. BETTIE J. GIRLING of Austin, Travis County, is being reappointed.

TO BE A MEMBER OF THE TEXAS EMPLOYMENT COMMISSION: For a term to expire February 1, 1993: MR. RONALD E. LUNA of Buda, Hays County, is being reappointed.

TO BE A MEMBER OF THE VETERANS LAND BOARD: For a term to expire December 29, 1990: MR. JIM SALE of Dallas, Dallas County, is being reappointed.

In my opinion, the Senate will choose the right and proper course of action in this matter.

Respectfully submitted,

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

COMMITTEE SUBSTITUTE SENATE BILL 95 ON SECOND READING

On motion of Senator Blake and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 95, Relating to changing the name of the State Board of Morticians to the Texas Funeral Service Commission, to the powers and duties of that

commission, and to regulation of funeral directing and embalming; providing administrative penalties.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 95
ON THIRD READING**

Senator Blake moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 95 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Sarpalius.

The bill was read third time and was passed viva voce vote.

SENATE BILL 357 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 357, Relating to service of process on certain insurers.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 357 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 357 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Sarpalius.

The bill was read third time and was passed viva voce vote.

SENATE BILL 190 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 190, Relating to the definition of doing an insurance business in this state.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 190 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 190 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Sarpalius.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sarpalius.

GUEST PRESENTED

Senator Armbrister was recognized and introduced the Capitol Physician for the Day, Dr. Glenn Johnson, a physician serving the Texas Department of Corrections.

The Senate expressed its appreciation to Dr. Johnson and welcomed him as its guest for the day.

COMMITTEE SUBSTITUTE SENATE BILL 297 ON SECOND READING

On motion of Senator McFarland and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 297, Relating to certain sales of assets of a state bank.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Amend **C.S.S.B. 297** by striking Sec. 1. (2) of Art. 3a. SALE OF CERTAIN ASSETS in its entirety and replacing with the following:

(2) the Federal Deposit Insurance Corporation or its successor has expressly consented to and approved the transaction and has agreed to provide assistance to the prospective buyer under 12 U.S.C. Section 1823(c) or a comparable provision of law.

The amendment was read and was adopted viva voce vote.

On motion of Senator McFarland and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 297 ON THIRD READING

Senator McFarland moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 297** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Sarpalius.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sarpalius.

SENATE BILL 263 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 263, Relating to regulation of home health services.

The bill was read second time.

Senator Brooks offered the following committee amendment to the bill:

Amend **S.B. 263**, Section 2(b) Page 2 Line 18, in the following manner:

After "article" delete the period (.) and add ", provided that nothing contained herein shall prevent the policyholder and insurer from negotiating other benefits for home health services following policyholder rejection as provided above."

The committee amendment was read and was adopted viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 1

Amend **S.B. 263**, SECTION 1, Section 2 (c) (2), as follows:

(2) blanket insurance policies, as defined in Article 3.51-6, Insurance Code;

The amendment was read and was adopted viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 2

Amend **S.B. 263**, by adding a new SECTION 2 and renumbering current SECTIONS 2 and 3 as follows:

SECTION 2: Chapter 3, Insurance Code, Article 3.70-8 is amended to read as follows:

Art. 3.70-8. Nothing in this Act shall apply to or affect (1) any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance except as provided in Section 2, Subsections (B) and (C) [;] and in Article 3.70-3B; or (4) life insurance endowment or annuity contracts or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value, special benefit, or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract, or (5) any policy written under the provisions of Senate Bill No. 208, Acts of the 51st Legislature, 1949.

The amendment was read and was adopted viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 263 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 263** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Sarpalius.

The bill was read third time and was passed viva voce vote.

CONGRATULATORY RESOLUTIONS

H.C.R. 49 - (Brooks): Commending Marley E. Leonard, Sr.

S.R. 77 - By Barrientos: Commending Southern Union Gas Company employees for their contributions to Project Warm Spirit.

S.R. 78 - By Barrientos: Extending congratulations to Gaylord Humberger, Sr.

S.R. 79 - By Tejeda: Commending the Alamo Silver Wings.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:35 a.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

Signed by Governor
(February 17, 1987)

S.C.R. 19

S.C.R. 16

H.C.R. 52

H.C.R. 48

H.C.R. 44

H.C.R. 39

H.C.R. 16

H.C.R. 14

SIXTEENTH DAY

(Wednesday, February 18, 1987)

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Absent: Washington.

Absent-excused: Brooks, Sarpalius.

A quorum was announced present.

Dr. Bob Tobin, Headmaster, All Saints' Episcopal School, Lubbock, offered the invocation as follows:

O God, You have blessed us with minds to think with, hearts to love and hands to work. You have taught us that Your goals for each of us are to be whole; to grow in wisdom; to learn to love; and to trust in Your grace and truth. You have given